

Introduced by Senator Cogdill

February 22, 2007

An act to amend Sections 25354.5 and 25400.46 of the Health and Safety Code, relating to methamphetamine cleanup.

LEGISLATIVE COUNSEL'S DIGEST

SB 592, as introduced, Cogdill. Methamphetamine: liable party: property owner reimbursement.

The Methamphetamine Contaminated Property Cleanup Act of 2005 requires a local health officer to take specified actions after receiving notification from a law enforcement agency of potential contamination, or of known or suspected contamination, of property by methamphetamine laboratory activity. Under the act, if property is contaminated, the property owner is liable for the cost of remediating the property, including any decontamination or disposal expenses, and other related expenses. If a person who is not the owner of the property conducts methamphetamine laboratory activity on or at that property, that person is liable for those costs, and is required to reimburse the property owner.

Existing law requires the Department of Toxic Substances Control to take removal actions with respect to a hazardous substance that is an illegal controlled substance, a precursor of a controlled substance, or a material intended to be used in the unlawful manufacture of a controlled substance. The department is authorized to expend funds appropriated from the Illegal Drug Lab Cleanup Account in the General Fund for this purpose.

This bill would authorize an owner of real property to submit a claim to the department, if the owner is required to be reimbursed by a liable party for any costs the owner incurs for remediating the property, but

is unable to obtain reimbursement from that liable party. The bill would authorize the department to pay a claim to that person for reimbursement of those costs from the Illegal Drug Lab Cleanup Account, upon appropriation by the Legislature, if the department determines the property owner is eligible for reimbursement of these costs.

Vote: majority. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 25354.5 of the Health and Safety Code
2 is amended to read:

3 25354.5. (a) A state or local law enforcement officer or
4 investigator or other law enforcement agency employee who, in
5 the course of an official investigation or enforcement action
6 regarding the manufacture of any illegal controlled substance,
7 comes in contact with, or is aware of, the presence of a substance
8 that the person suspects is a hazardous substance at a site where
9 an illegal controlled substance is or was manufactured, shall notify
10 the department for the purpose of taking removal action, as
11 necessary, to prevent, minimize, or mitigate damage that might
12 otherwise result from the release or threatened release of the
13 hazardous substance, except for samples required under Section
14 11479.5 to be kept for evidentiary purposes.

15 (b) (1) Notwithstanding any other provision of law, upon receipt
16 of a notification pursuant to subdivision (a), the department shall
17 take removal action, as necessary, with respect to any hazardous
18 substance that is an illegal controlled substance, a precursor of a
19 controlled substance, a material intended to be used in the unlawful
20 manufacture of a controlled substance and any container for such
21 a material, a waste material from the unlawful manufacture of a
22 controlled substance, or any other item contaminated with a
23 hazardous substance used or intended to be used in the manufacture
24 of a controlled substance. The department may expend funds
25 appropriated from the Illegal Drug Lab Cleanup Account created
26 pursuant to subdivision (f) to pay the costs of removal actions
27 required by this section. The department may enter into oral
28 contracts, not to exceed ten thousand dollars (\$10,000) in
29 obligation, when, in the judgment of the department, immediate

1 corrective action to a hazardous substance subject to this section
2 is necessary to remedy or prevent an emergency.

3 (2) The department shall, as soon as the information is available,
4 report the location of any removal action that will be carried out
5 pursuant to paragraph (1), and the time that the removal action
6 will be carried out, to the local environmental health officer within
7 whose jurisdiction the removal action will take place, if the local
8 environmental officer does both of the following:

9 (A) Requests, in writing, that the department report this
10 information to the local environmental health officer.

11 (B) Provides the department with a single 24-hour telephone
12 number to which the information can be reported.

13 (c) (1) For purposes of Chapter 6.5 (commencing with Section
14 25100), Chapter 6.9.1 (commencing with Section 25400.10), or
15 this chapter, any person who is found to have operated a site for
16 the purpose of manufacturing an illegal controlled substance or a
17 precursor of an illegal controlled substance is the generator of any
18 hazardous substance at, or released from, the site that is subject to
19 removal action pursuant to this section.

20 (2) During the removal action, for purposes of complying with
21 the manifest requirements in Section 25160, the department, the
22 county health department, the local environmental health officer,
23 or their designee may sign the hazardous waste manifest as the
24 generator of the hazardous waste. In carrying out that action, the
25 department, the county health department, the local environmental
26 health officer, or their designee shall be considered to have acted
27 in furtherance of their statutory responsibilities to protect the public
28 health and safety and the environment from the release, or
29 threatened release, of hazardous substances, and the department,
30 the county health department, the local environmental health
31 officer, or their designee are not responsible parties for the release
32 or threatened release of the hazardous substances.

33 (3) The officer, investigator, or agency employee specified in
34 subdivision (a) is not a responsible party for the release or
35 threatened release of any hazardous substances at, or released from,
36 the site.

37 (d) The department may adopt regulations to implement this
38 section in consultation with appropriate law enforcement and local
39 environmental agencies.

1 (e) (1) The department shall develop sampling and analytical
2 methods for the collection of methamphetamine residue.

3 (2) On or before October 1, 2007, the department, using
4 guidance developed by the Office of Environmental Health Hazard
5 Assessment, shall develop a health-based target remediation
6 standard for methamphetamine.

7 (3) On or before October 1, 2008, the department shall, to the
8 extent funding is available, develop health-based target remediation
9 standards for iodine, methyl iodide, and phosphine.

10 (4) To the extent that funding is available, the department, using
11 guidance developed by the Office of Environmental Health Hazard
12 Assessment, may develop additional health-based target
13 remediation standards for additional precursors and byproducts of
14 methamphetamine.

15 (5) On or before October 1, 2009, the department shall adopt
16 investigation and cleanup procedures for use in the remediation
17 of sites contaminated by the illegal manufacturing of
18 methamphetamine. The procedures shall assure that contamination
19 by the illegal manufacturing of methamphetamine can be
20 remediated to meet the standards adopted pursuant to paragraphs
21 (2) to (4), inclusive, to protect the health and safety of all future
22 occupants of the site.

23 (6) The department shall implement this subdivision in
24 accordance with subdivision (d).

25 (f) The Illegal Drug Lab Cleanup Account is hereby created in
26 the General Fund and the department may expend any money in
27 the account, upon appropriation by the Legislature, to carry out
28 the removal actions required by this section, *to reimburse an*
29 *eligible property owner for claims submitted pursuant to*
30 *subdivision (d) of Section 25400.46*, and to implement subdivision
31 (e), including, but not limited to, funding any interagency
32 agreement entered into with the Office of Environmental Health
33 Hazard Assessment to provide guidance services. The account
34 shall be funded by moneys appropriated directly from the General
35 Fund.

36 (g) The responsibilities assigned to the department by this
37 section apply only to the extent that sufficient funding is made
38 available for that purpose.

39 SEC. 2. Section 25400.46 of the Health and Safety Code is
40 amended to read:

1 25400.46. (a) A property owner who receives an order issued
2 by a local health officer pursuant to Section 25400.22, or a property
3 owner who owns property that is the subject of a notice posted
4 pursuant to subdivision (i) of Section 25400.22, is liable for, and
5 shall pay all of the following costs if it is determined that the
6 property is contaminated:

7 (1) The cost of any testing.

8 (2) Any cost related to maintaining records with regard to the
9 property.

10 (3) The cost of remediating the property, including any
11 decontamination or disposal expenses.

12 (4) Any actual cost incurred by the local health officer or any
13 other local or state agency resulting from the enforcement of this
14 chapter and oversight of the implementation of the PSA work plan
15 and the PSA report, with regard to that property.

16 (b) A person who conducts methamphetamine laboratory activity
17 on or at property subject to subdivision (a), and who is not the
18 owner of that property, is liable for, and shall reimburse the owner
19 of the property for, any cost that property owner may incur pursuant
20 to subdivision (a).

21 (c) The owner of a mobilehome, manufactured home, or
22 recreational vehicle, in or about which a methamphetamine
23 laboratory activity occurred, is liable for, and shall reimburse the
24 owner of the real property on which the mobilehome, manufactured
25 home, or recreational vehicle is located for, any cost the owner of
26 the real property incurs pursuant to subdivision (a).

27 *(d) If an owner of property is required to be reimbursed*
28 *pursuant to subdivision (b) or (c) for any costs the owner incurs*
29 *pursuant to subdivision (a), but is unable to obtain that*
30 *reimbursement from the liable party, the property owner may*
31 *submit a claim for those costs to the department. The department*
32 *may pay that claim from the Illegal Drug Lab Cleanup Account,*
33 *upon appropriation by the Legislature, if the department*
34 *determines the property owner is eligible for reimbursement of*
35 *those costs.*